THE COMMITTEE ON ENERGY AND COMMERCE

MEMORANDUM

September 7, 2012

TO: Members, Subcommittee on Oversight and Investigations

FROM: Committee Majority Staff

RE: Hearing on "DOE's Nuclear Weapons Complex: Challenges to Safety, Security, and Taxpayer Stewardship"

On Wednesday, September 12, 2012, at 10:00 a.m. in room 2123 Rayburn House Office Building, the Subcommittee on Oversight and Investigations will hold a hearing entitled "DOE's Nuclear Weapons Complex: Challenges to Safety, Security, and Taxpayer Stewardship." This hearing will review what is necessary to maintain the highest standards for safe and secure operations at Department of Energy nuclear weapons laboratories and production sites, as the agency addresses the persistent challenges it confronts when executing its mission requirements. The hearing will include review of the July 28, 2012, security breakdown at the Y-12 National Security Complex.

I. WITNESSES

There will be a single panel of witnesses:

Daniel B. Poneman
Deputy Secretary
Department of Energy
Accompanied by:
Thomas P. D'Agostino
Under Secretary for Nuclear Security and
Administrator, National Nuclear Security Administration
Department of Energy
Glenn S. Podonsky
Chief Health, Safety and Security Officer
Department of Energy

Gregory H. Friedman
Inspector General
Department of Energy

Mark E. Gaffigan
Managing Director, Natural Resources and Environment Team
Government Accountability Office

II. BACKGROUND

DOE carries out many of the nation's most critical national security-related missions, including stewardship of the nation's nuclear weapons stockpile and the environmental remediation of the Cold War era nuclear weapons complex. This work involves the most high-hazard nuclear facilities and materials, nuclear weapons components, and DOE's most sensitive, top secret national security information. These missions also include technically complex, expensive, often one-of-a-kind construction and cleanup operations that pose significant safety, public health, and environmental risks.

DOE is the largest non-Defense Department contracting agency in the Federal government; it relies primarily on contractors to carry out its diverse missions and to operate its laboratories and other facilities, accounting for about 90 percent of its annual $26 billion budget. The Government Accountability Office (GAO) has designated DOE contract management as a "high risk" area because DOE's record of inadequate management and oversight of contractors has left the department vulnerable to fraud, waste, abuse, and mismanagement. DOE has made progress in addressing this high risk; GAO removed the designation from the Office of Science in January 2009. GAO now designates two DOE program elements as high risk – the Office of Environmental Management and the National Nuclear Security Administration (NNSA). These two program elements account for about 60 percent of the agency's annual budget.[1]

Ensuring implementation of the necessary safeguards and security measures, the safety and public health protections – combined with the managerial challenges for construction, cleanup, and coordination of weapons refurbishment, maintenance, disassembly, and disposal -- has long posed tremendous contract administration and project management challenges for the department. The challenges have required constant, disciplined vigilance on the part of DOE as it has transformed its operations and facilities to execute post-Cold War national policies. Unfortunately, the vigilance has not always kept up with the challenges, as serious security breaches and safety problems in the 1990s demonstrated. (See, for example, the series of Energy and Commerce Committee hearings held on April 20, 1999, June 22, 1999, July 13, 1999, July 20, 1999, and October 26, 1999.)

In 1999, as a result of serious security lapses and other management failures across the complex, Congress amended the Department of Energy Organization Act of 1977 and created the NNSA within DOE to manage nuclear weapons research and production activities, as well as other defense-related national security and nuclear non-proliferation activities of the Department.[2] The NNSA was established as a semi-autonomous agency within DOE, subject to "the authority, direction, and control" of the Secretary of Energy.[3] Congress also provided that the Secretary (or Deputy Secretary on behalf of the Secretary) remain responsible for establishing policy for NNSA and could draw upon DOE staff as necessary to review NNSA programs and activities and make recommendations to the Secretary regarding program administration.[4]

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[1] In FY 2012, NNSA was appropriated about $11 billion (or 40% of the FY enacted budget) and EM about $5.7 billion (about 20% of DOE's FY enacted budget). For more on GAO high-risk designations see www.gao.gov/highrisk/risks/federal-contracting/doe.php.

[2] DOE continued to manage separately Environmental Management sites and programs and energy-related research and development activities and sites operated by the Office of Science, which to some extent overlap some NNSA site and facility operations.

[3] See Section 202 c (3) of the DOE Organization Act, also available at 42 U.S.C. 7132.

[4] See Section 213 of the DOE Organization Act, also available at 42 U.S.C. 7144.

This governance structure, which exists today, provides a line of authority from the Secretary through NNSA to the DOE contractors for implementing department policies and programs and conducting safeguards and security oversight. At the same time, it provides the Secretary the assurance of an internal regulatory mechanism, governed by the Office of Health Safety and Security, which reports directly to the Secretary, and is not tied to line management, to help ensure fuller information for Secretarial decision-making.

To carry out its weapons stockpile stewardship and portions of its nonproliferation work, NNSA oversees eight government-owned contractor-operated sites that comprise the nuclear weapons complex, presently known as the Nuclear Security Enterprise. Specifically, NNSA manages three national nuclear weapons design laboratories -- the Los Alamos National Laboratory (NM), Lawrence Livermore National Laboratory (CA), and Sandia National Laboratories (NM and CA); four nuclear weapons production plants – the Y-12 National Security Complex (TN), the Kansas City Plant (MO), the Tritium Extraction Facility at DOE's Savannah River Site (SC), and the Pantex Plant (TX); and the Nevada National Security Site, formerly known as the Nevada Test Site, which used to conduct nuclear tests, but now conducts other weapons-related work.

In the decade following the formation of NNSA, the Energy and Commerce Committee – in 15 hearings held and numerous GAO investigations requested – identified persistent security and safety problems within the nuclear weapons complex. Accidents and nuclear safety violations contributed to the temporary shutdown of facilities at both Los Alamos and Lawrence Livermore in 2004 and 2005, respectively, costing taxpayers hundreds of millions of dollars in lost productivity.[5] Subsequent work by the Energy and Commerce Committee in 2008 and 2009 examined cybersecurity weaknesses and deficiencies in lab self-assessment programs and NNSA site office oversight, notably at the Lawrence Livermore National Laboratory.[6]

In recent years, NNSA oversight and management have improved, but events show there continues to be safety, security, and performance challenges in the weapons complex. In the meantime, efforts are underway – in the face of criticism from the weapons laboratories in particular – to streamline DOE safety and security directives, and otherwise reform the approach to oversight over the complex.

In March 2010, DOE Deputy Secretary Daniel Poneman initiated DOE's "2010 Safety and Security Reform Plan" to revise safety and security directives and reform its oversight approach to provide contractors with flexibility to tailor and implement safety and security programs "without excessive federal oversight or overly prescriptive departmental requirements." A similar effort was also initiated by NNSA to reform NNSA security policy. This effort involved a review of a "patchwork" of security requirements implemented over the previous decade to evaluate the effectiveness of the requirements. This hearing will provide an opportunity to review the status of these reform efforts.

[5] See for example, "Nuclear and Worker Safety: Actions Needed to Determine the Effectiveness of Safety Improvement Efforts at NNSA's Weapons Laboratories," GAO, October 2007. GAO-08-73.
[6] See, for example, "Better Oversight Needed to Ensure that Security Improvements at Lawrence Livermore National laboratory Are Fully Implemented and Sustained," GAO, March 2009. GAO-09-321.

Despite these reform efforts, the weapons laboratories maintain that DOE/NNSA oversight is burdensome. In April 2012, the directors of the three national weapons laboratories issued a white paper noting, "[f]rom the laboratories perspective, the NNSA involvement with the details of how the mission is accomplished is excessive and expensive, is not risk-based, and does not represent best practices. The governance is in urgent need of transformation." The directors went on to call for structural change to the NNSA, which would include increasing NNSA autonomy from DOE, increasing laboratory autonomy, and reducing the NNSA oversight burden. The National Defense Authorization Act, which passed the House of Representatives on May 18, 2012, contains reform provisions reflective of the point-of-view expressed by the nuclear weapons laboratories that NNSA should operate with nominal DOE oversight.

The Security Incident at Y-12: The Y-12 National Security Complex serves as the nation's only source of enriched uranium nuclear weapons components and provides enriched uranium for the U.S. Navy. It is considered the "Fort Knox" for highly enriched uranium. During the early morning hours of July 28, 2012, three individuals breached security and gained access to the area surrounding the Highly Enriched Uranium Materials Facility (HEUMF) at the Y-12 site – long reputed to be one of the most secure facilities in the United States -- and defaced the building. DOE's Inspector General (IG), in a special report on the incident issued on August 28, 2012, identified "multiple system failures on several levels." These failures include "troubling displays of ineptitude", failure to maintain security equipment, over reliance on compensatory security protocols, poor maintenance, poor communications and weaknesses in resource management. The IG also found that "[c]ontractor governance and Federal oversight failed to identify and correct early indicators of these multiple system breakdowns."[7]

III. ISSUES

The following issues may be examined at the hearing:

- What was the role of Federal oversight and management in the Y-12 security breach?
- What are the risks to reducing oversight of DOE contractors working in the nuclear weapons complex?
- Is Federal oversight, independent of NNSA and the contractors, needed? If so, why?
- What are the management challenges confronting DOE and NNSA regarding mission performance?
- What is necessary to reduce the risk of waste of taxpayer funds and related cost overruns?

IV. STAFF CONTACTS

If you have any questions regarding this hearing, please contact Peter Spencer or Carl Anderson of the Committee staff at (202) 225-2927.

[7] See "Inquiry into the Security Breach at the National Nuclear Security Administration's Y-12 National Security Complex," August 2012, DOE/IG-0868.